

SRI LANKA INCOME TAX

Know The Tax Law

To Plan the tax,

- **for better compliance**
- **for a peace of mind**

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INTRODUCTION

Repealed the IR Act No. 10 of 2006.

Replaced with New **IR Act No. 24 of 2017.**

New Act;

- passed in the Parliament on 07.09.2017
- certified on 24.10.2017
- effective from 01.04.2018 (From Y/A 2018/19).



CHARGING SECTION (Sec.2)

- IT shall be payable for each year of assessment
- By (a) a person who has taxable income for that year, or
(b) a person who receives a final withholding payment during that year
- Tax =

(a) (Taxable Income x Rate/s*) – tax credits**, if any

PLUS

(b) Final withholding payment x Rate/s*

* *Tax rates are given in First Schedule to the Act.*

** *Tax credit includes foreign tax credits under Sec. 80 + any other tax credits granted/allowed.*

Previous Act had several charging sections (2, 76, 102 and a few WHT sections)

IMPORTANT QUESTIONS ANSWERED IN SECTION 2

- What tax?
 - Income tax (*IT, WHT & Remittance Tax*)
- Who is liable?
 - A person
- How frequently the tax be computed?
 - For each Y/A
- On what should the tax be computed?
 - On taxable income & on income to be subjected to Final WHT
- At what rate the tax be computed?
 - Relevant rates in 1st Schedule
- What are the allowable deductions from tax?
 - Foreign & other allowable tax credits



COMPUTATION OF TAX

The Tax is equivalent to;

- (a) $(\text{Taxable Income} \times \text{Rate/s}^*) - \text{tax credits, if any}$

PLUS

- (b) $\text{Final withholding payment} \times \text{Rate/s}^*$

**Tax rates as given in First Schedule to the Act.*

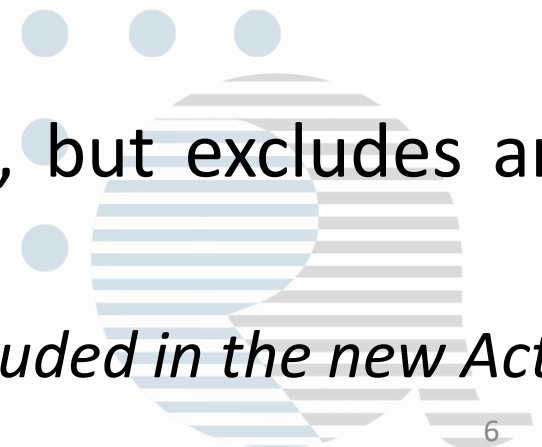
On what income, the IT payable in Sri Lanka (Sec. 4);

- A resident person - on the world income
- A non-resident person (Sec. 4) - on the income arises in /from Sri Lanka.



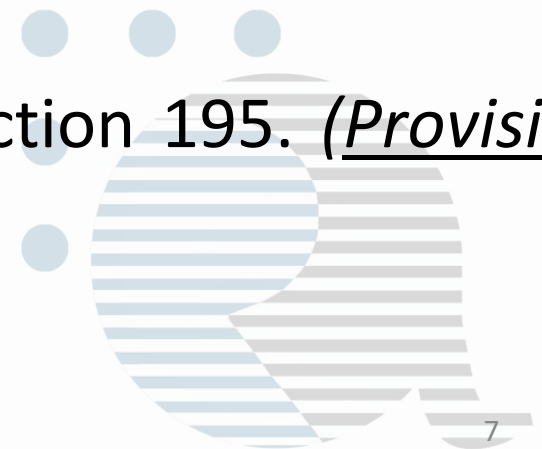
INTERPRETATIONS RELATING TO CHARGING SEC.

- **Year of Assessment (Y/A)** means the period of 12 months commencing on the 1st day of April of any year and ending on the thirty first day of March in the immediately succeeding year. (Sec. 20)
- **Person** means an Individual⁽¹⁾
 - or entity and includes a body of persons corporate or unincorporated, an executor, non-governmental organization and charitable institution. (Sec. 195)
- **Entity** means a company⁽²⁾, partnership⁽³⁾ or trust⁽⁴⁾, but excludes an individual. (Sec.195)
 - *“Person”, in the previous Act, excludes partnerships but included in the new Act.*



INTERPRETATIONS RELATING TO CHARGING SEC. *Contd.*

- **Partnership** means an association of two or more individuals or corporations carrying on business jointly for the purpose of making profit, irrespective of whether the association is recorded in writing. (Sec. 195).
 - *Whether a JV is a Partnership/ Company?*
- **Trust** means an *arrangement* under which a trustee holds assets. (Sec. 195).
- **Body** means a company, partnership, trust or other body of person whether formed in SL or elsewhere.
- **Non-governmental Organizations** are also defined in Section 195. (Provision or relief and services of humanitarian nature to needy)



INTERPRETATIONS RELATING TO CHARGING SEC. (Contd..)

Company,

(a) means a corporation, unincorporated association or other body of persons;

(b) includes –

(i) a friendly society, building society, pension fund, provident fund, retirement fund, superannuation fund or similar fund or society; and

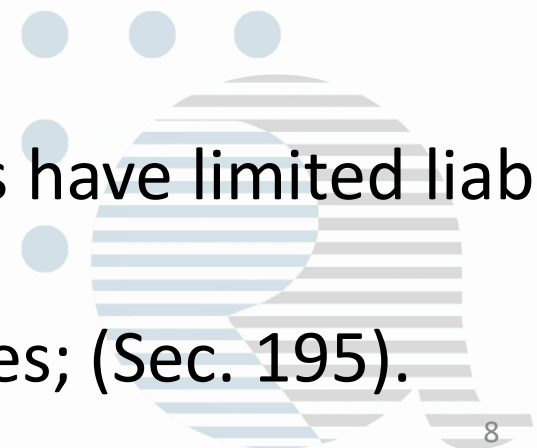
(ii) a government excluding the Sri Lankan government, a political subdivision of a government, or a public international organization; but

(c) excludes a partnership or trust; and

(d) the following shall be deemed to be a company:

(i) a partnership in which at least twenty of the partners have limited liability for the debts of the partnership; and

(ii) a unit trust or mutual fund to which section 59 applies; (Sec. 195).



INTERPRETATIONS RELATING TO CHARGING SEC. *(Contd..)*

Charitable Institution means the trustee or trustees of a trust or corporation or an unincorporated body of persons established for a charitable purpose only or engaged solely in carrying out a charitable purpose.

Charitable Purposes means a purpose for the benefit of the public or any section of the public in or outside Sri Lanka, of any of the following categories:

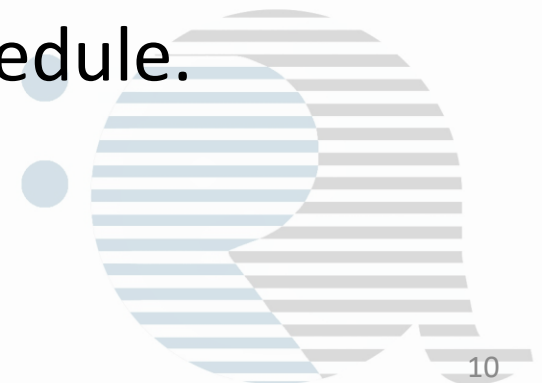
- (a) the relief of poverty;
- (b) the advancement of education or knowledge other than by any institution established for business purposes or by any institution established under the Companies Act;
- (c) activities for the protection of the environment or eco-friendly activities;
- (d) the advancement of religion or the maintenance of religious rites and practices or the administration of a place of public worship;
- (e) any other purpose beneficial to the community, not falling within any of the above categories (Sec. 195).

ASSESSABLE INCOME & TAXABLE INCOME

Assessable Income = Income from employment + business + investment + other sources (*Sec. 4*)

- *Resident person* - on the world income
- *Non-resident person* - on the income arises in /from Sri Lanka. (*Sec. 4*)

Taxable Income = Assessable Income less **qualifying payments** and **reliefs** under Sec. 52 read along with 5th Schedule.



QUALIFYING PAYMENTS (QPs) & RELIEFS (Sec. 52 & Fifth Schedule)

QPs - Specified donations* & profit remitted to President Fund by public corporations (**Applicable to any person*)

Reliefs – (*Not for entities*)

- Personal allowance of Rs. 500,000/= against any assessable income except against capital gains (for resident individuals & SL citizens only),
- Employment allowance < Rs. 700,000/= (for residents & up to E/income),
- 25% allowance on gross rent (for repair*, maintenance* & **depreciation**) (for resident individuals & on Investment Assets only), (**actual or 25%**)
- Senior citizen's allowance on interest up to Rs. 1.5 million (for resident individuals only),
- Resident individual's/partner's foreign currency service income allowance up to Rs. 15 million. (for resident individuals only)

RESIDENCY FOR TAXATION (Sec.69)

- Individuals-** :
- If resides in SL,
 - : If present in SL aggregate to > 183 days in any 12 months period commences/end during the year (Y/A),
 - : If a Government official/employee and/or spouse posted abroad, **or**
 - : If employed on a SL ship, during the period of employment.

- Partnerships-** :
- If formed in SL, **or**
 - : Mgt. and control of affairs of the partnership exercised in SL.

- Companies-** :
- Incorporated/formed under laws of SL,
 - : It's registered/ principal office is in SL, **or**
 - : Mgt. and control of affairs of the company exercised in SL.

- Trusts-** :
- If it was established in Sri Lanka,
 - : At any time a trustee of the trust is resident in SL, **or**
 - : A SL resident person directs (influenced) the trust's mgt. decisions.

SOURCES OF INCOME (Sec. 3)

Old Act (No. 10 of 2006)

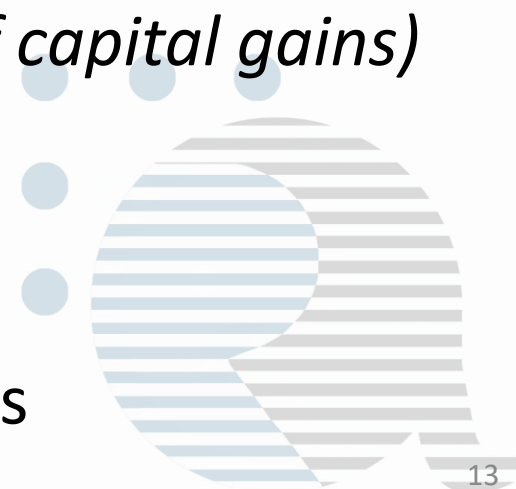
10 Sources of Statutory Income

- Employment
- Trade, Business, Profession and Vocation
- NAV, Rent, Dividends, Interest or Discounts Charges or Annuities, Royalties or Premium, Lottery, Betting or Gambling etc.
- Grants, donations or contributions (NGO) & Other Services

New Act (No. 24 of 2017)

4 Sources of Assessable Income

- Employment
- Business
- Investment
(inclusive of capital gains)
- Other Sources



EMPLOYMENT INCOME (EI) (Sec. 5)

- El shall include following, received/derived from employment during the Y/A;
 - : **Salary**, wages, leave pay, OT, fees, pension, commissions, gratuities, bonuses etc.
 - : **Personal allowance** including COL, subsistence, rent, entertainment or travel,
 - : Payments providing **discharge or reimbursement of expenses**,
 - : Payments for the individual's **agreement to conditions of employment**,
 - : Payment for **redundancy, loss or termination** of employment,
 - : Contribution to a **retirement fund and retirement payments** received,
 - : **Payment/transfers to another person** on behalf of him,
 - : **Fair market value of employment benefits** received/derived,
 - : **Other payments including gifts** received in respect of the employment, **and**
 - : **Market value of shares at the time allotted** under a employee share scheme less employee's contribution there on.

EMPLOYMENT INCOME Contd.... (Sec. 5)

- Individual's EI is the **gains and profits from the employment.**
- Employment income **excludes** followings;
 - : ***Exempt amounts and final withholding payments,***
 - : ***Discharge or reimbursement of expenses by individual on behalf of the employer,***
 - : ***Discharge or reimbursement of dental, medical or health insurance expenses for the benefit of all full-time employees,***
 - : ***Payments made to or benefits accruing to employees commonly***
 - : ***Value of a right/option to acquire shares at the time of granted to an employee under employee share scheme, and***
 - : ***Contributions made by an employer to an employee's account with a pension, provident of savings fund or savings society approved by CG.***
- ***Most of the non-cash benefit values have been published in IRD web portal.***

EMPLOYMENT INCOME Comparison with Old Act

	<u>Old Act (No. 10 of 2006)</u>	<u>New Act (No. 24 of 2017)</u>
Personal Allowance	Rs. 500,000 p.a.	Rs. 500,000 p.a.
Emp. Allowance/Qualifying Pay.	QP = < Rs. 250,000 p.a.	Emp. Allow.= < Rs. 700,000 p.a.
Tax Free Travelling Benefit	< Rs. 50,000 p.m.	None
Tax Free Housing Benefit (p.m.)	Liable income < Rs.16,500	Liable income < Rs.30,000 max.
Telephone Bills (private use)	50% of the bill	50% of the bill
Medical Benefits	Liable (Bill/insurance premia)	Exempt (if common for all)
2nd Employment/Directors Fees	< 25,000 p.m. @10%, > 25,000 p.m. @16%	First 50,000 p.m. @10%, Excess @20%
Maximum Rate of Tax	16%	24%
Retirement benefit (EPF, EPF, Pension)	Exempt	Exempt

EMPLOYMENT INCOME Comparison with Old Act Contd...

Old Act (No. 10 of 2006)

Travelling Benefit	600,000	Exempt
Personal Allowance	500,000	No Tax
Employment QP	250,000	No Tax
1 st 500,000 of TI		@ 4%
2 nd 500,000 of TI		@ 8%
3 rd 500,000 of TI		@ 12%
Balance TI (AI > 2.85 m.)		@ 16%

New Act (No. 24 of 2017)

Travelling Benefit	No Exemption
Personal Allowance	500,000 No Tax
Employment Allow.	700,000 No Tax
1 st 600,000 of TI	@ 4%
2 nd 600,000 of TI	@ 8%
3 rd 600,000 of TI	@ 12%
4 th 600,000 of TI	@ 16%
5 th 600,000 of TI	@ 20%
Balance TI (AI > 4.2 m.)	@ 24%

Eg. Total Tax on annual Employment Income with maximum travelling benefit;

If on Rs. 2.85Mn	120,000 (Excess@16%)
If on Rs. 3.35Mn	200,000 (Excess@16%)
If on Rs. 4.20Mn	336,000 (Excess@16%)

126,000
200,000
360,000 (Excess @ 24%)

EMPLOYMENT INCOME Contd.... (Sec. 5)

Uncertainties/Remarks on Taxing of Employment Income

- The Sec. 5(2) is not a complete statement listing what includes the **gains and profits from the employment** and hence there may be some other related income not listed in it.
- As per Sec. 5(3) wordings, there cannot be any other exclusions not listed in it.
- Employees getting <Rs. 3.35 million p.a. (<Rs. 279,167/= p.m.) are badly affected.
- **Fair market value of employment benefits-** The methodology of computation is to be clarified. (Eg. Fair market value of rate of interest on staff loans.)
- The **Market Value of shares** at the time of allotted under an employee share scheme is liable to tax. Here the principle of tax payment ability at the time of allotment and the gain on disposing the right/option have not been addressed to.

INVESTMENT INCOME (INCLUDING CAPITAL GAINS) Sec. 07

- A persons **income from an investment** for a Y/A shall be the person's **gains and profits** from that investment for the year. [Section 7(1)]
 - **Periodical returns** (Eg. Interest, dividends, discounts, rent, royalty etc.) generated on that investment,
plus
 - The **profit on realisation** (disposal) of the investment asset (capital gains).
- **Capital Gain/(Loss) on investment asset = Consideration received - Cost of the asset (Sec.36).**

INVESTMENT INCOME (INCLUDING CAPITAL GAINS) Sec. 07

INCLUSIONS;

- In calculating **gains and profits from investment**, following amounts **received or derived** during the Y/A from investment by that person shall be **included**; [S. 7(2)]
- Dividends, interest, discounts, charges, annuities, natural resource payments, rents, premiums & royalties,
- Gains from the realisation of investment assets (as calculated under Chapter IV),
- Amounts derived as consideration for accepting a restriction on the capacity to conduct the investment,
- Gifts received by the person in respect of the investment,
- Winning from lotteries, betting or gambling and
- Other amounts required to be included under this Act.



INVESTMENT INCOME (INCLUDING CAPITAL GAINS) Sec. 07

EXCLUSIONS;

- In calculating gains and profits from an investment, **following shall be excluded;** [Sec. 7(3)]
 - Exempted gains and profits,
 - Gains and profits which have been **subjected to final withholding tax** and
 - Amounts **included in** the person's **employment or business** profits and income.

Some exclusions & exemptions are given in Sec. 7(3), Third Schedule and in Fifth Schedule.

INVESTMENT INCOME (INCLUDING CAPITAL GAINS) Sec. 07

Exclusions

- **Capital Gains on asset transfers, excluded for taxation;**

(a) An individual transfer to a spouse/ex-spouse (Sec. 44)

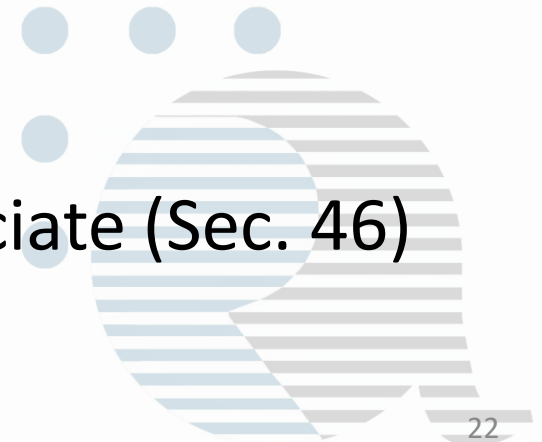
(Needs the recipient's written request).

(a) An individual transfer on death (Sec. 45)

(b) An individual transfer to an associate/charitable institution (Sec. 46)

(c) Any person transfers by way of a gift (Sec. 46)

(d) Any person transfers of assets of a business to an associate (Sec. 46)



INVESTMENT INCOME (INCLUDING CAPITAL GAINS) Sec. 07

Exemptions

- Capital gains of resident individuals not exceed **Rs. 50,000 per investment asset/** accumulated amount that do not exceed **Rs. 600,000 per Y/A** is exempted (**3rd Sch.**)
 - CGIR be satisfied that it has not broken in to several transactions to get this benefit.
 - In applying the exemption, the total gain to be taken on joint holding asset/s.
- Gain of a resident individual on realization of his **principal place of residence** where it has been **owned** during recent 3 yrs & **lived in by him**, 2 yrs out of that 3 yrs. (**3rd Sch.**)
- Gain on realization of **quoted shares** registered with SEC of SL (**3rd Sch.**)
- Benefits received by a Government employee of SL from **disposing of own road vehicle permit.**

INVESTMENT INCOME (INCLUDING CAPITAL GAINS) Sec. 07

Exemptions

- Profit & income from any property donated by Royal or other grant before 02.03.1815 to a place of worship administered by a charitable institution (3rd Sch.)
- Dividends and realization **gains on shares** in a non-resident company by a person holding not less than 10% non-redeemable shares having control/voting power in the company.
- Sale of **gems** on which WHT has been deducted under Sec 84 (2) (withheld by National Gem and Jewellery Authority on its auction sales). (i.e. 2.5%)
- 25% of total **rental income** from **investment asset** of an individual, only if actual repair, maintenance ~~and depreciation~~ has not been claimed (5th Sch.)

(Optional)

INVESTMENT INCOME - CAPITAL GAINS - INTERPRITATIONS

“Investment” means; (Sec. 195)

(a) The owning of one or more assets, including one or more assets of a similar nature or that are used in an integrated fashion, and

(I) Includes a past, present or prospective investment, but

(II) Excludes a business or employment, or

(b) A game of chance, including lotteries, betting or gambling.

“Asset” includes a tangible or intangible asset, currency, goodwill, knowhow, property, a right to income or future income, a benefit that lasts longer than twelve months and a part of an asset. (Sec. 195)



INVESTMENT INCOME – CAPITAL GAINS - INTERPRITATIONS (Contd...)

- **Investment Asset means;** (Sec. 195)

(a) capital asset held as part of an investment, but

*(b) **excludes** the principal place of residence of an individual, provided it has been owned by the individual continuously for 3 years before disposal and lived in for at least 2 of those 3 years (calculated on daily basis).*

- **Capital Assets means;** (Sec. 195)

(a) Each of the following assets

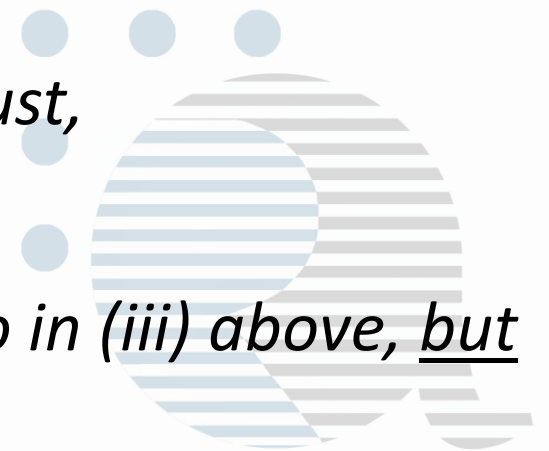
*(i) **Land or buildings,***

*(ii) A **membership interest** in a company, partnership or trust,*

*(iii) A security or other **financial asset,***

*(iv) An **option, right or other interest** in an asset referred to in (iii) above, but*

*(b) Excludes **trading stock** or a **depreciable asset.***



INVESTMENT INCOME - CAPITAL GAINS - INTERPRITATIONS (Contd...)

“Land or buildings” includes a structural improvement to land or buildings, an interest in land or buildings or an interest in a structural improvement to land or buildings, and includes the following:—

(a) a lease of land or buildings;

(b) a lease of a structural improvement to land or buildings; or

(c) an exploration, prospecting, development, or similar right relating to land or buildings; and

(d) information relating to a right referred to in paragraph (c); (Sec. 195)

“Membership interest” in an entity means a right, whether of a legal or equitable nature, including a contingent right, to participate in income or capital of the entity and includes the interest of a partner in a partnership, the interest of a beneficiary in a trust and shares in a company; (Sec. 195)

INVESTMENT INCOME - CAPITAL GAINS - INTERPRITATIONS (Contd...)

“Depreciable asset” means; (Sec. 195)

(a) an asset to the extent to which it is employed in the production of income from a business and which is likely to lose value because of wear and tear, obsolescence or the passing of time;

but

(b) excludes goodwill, an interest in land, a membership interest in an entity and trading stock;

“Trading stock” means; (Sec. 195)

Assets owned by a person that are sold or intended to be sold in the ordinary course of a business of the person, work in progress on such assets, inventories of materials to be incorporated into such assets and consumable stores.

INVESTMENT INCOME - CAPITAL GAINS TAX

GAINS AND LOSSES ON REALISATION OF AN ASSET/LIABILITY (CHAP. IV – Sec.36- 51)

- This chapter of the Act covers **investment assets** and liabilities (Capital Gains), as well as **business assets** and liabilities.
- **Person's Gain/(Loss)** on realisation of an asset/liability =
Consideration received - Cost [Sec.36(1)].
- **Cost of an investment asset held as at 30.09.2017** = M/Value at **30.09.2017**
(Sec.204)
- **Rate of capital gain tax = 10%**
(Business gains to be taxed at the rate applicable to business)
- **No personal allowance** of Rs. 500,000/= against capital gains (5th Sch.)
- **Tax Payment & Return Filing = Within one month** of realization of the asset.

INVESTMENT INCOME - CAPITAL GAINS TAX (Sec. 36 to 51)

Under Sec. 37, the Cost of an asset =

- (a)** the cost of acquisition, construction, manufacture or production of the asset,
- (b)** The cost of altering, Improving, maintaining or repairing the asset,
- (c)** Incidental expenses incurred by that person in acquiring and realising the asset,
- (d)** Income amounts on;
 - (i) An amount required to be included in AI /any exempt /final WH amount in relation to the asset,
 - (ii) Expenses incurred by another person under (b) & (c)above on behalf of the person acquis.



INVESTMENT INCOME - CAPITAL GAINS TAX Contd...

“Realisation of an asset” means (Sec. 39);

- Sold, exchanged, transferred, distributed, cancelled, redeemed, destroyed, lost, expired, expropriated or surrendered;
- When the person ceases to exist, including by reason of the death of an individual, immediately before the person ceases to exist;
- Consideration received from owning the asset (not been a trading stock or depreciable asset) exceeds the cost of the asset;
- A debt claim becomes bad;
- In the case of a trading stock, a depreciable asset, a capital asset of a business or an investment asset ceases to be an asset of any of those types; and
- Change of use or residency*.

INVESTMENT INCOME - CAPITAL GAINS TAX (Contd...)

“Consideration Received for an asset” means; (Sec. 38)

- Amount received/receivable for the asset, including the fair value of any consideration in kind,
- Amounts derived from altering or decreasing the value of the asset and amounts derived from the asset including by way of covenant to repair or otherwise; and
- Amount derived or an entitlement to derive in future in respect of the asset.



INVESTMENT INCOME - CAPITAL GAINS TAX (Contd...)

Practical/application Issues on Capital Gains;



- Convincing the IRD to release a blank return,
- Convincing the IRD to accept the completed return,
- Deciding whether it is a taxable income/not,
- If a taxable income, whether it is a capital gain/ business profit,
- How to arrive the value as at 30.09.2017 (if applicable),
- Can the IRD challenge a qualified valuer's valuation,
- If IRD challenging a qualified valuer's valuation, on what grounds,
- On what cases the value as at 30.09.2017 is applicable/ not applicable.



BUSINESS INCOME

(Gains and profits from conducting the Business - Sec. 06)

Definition of Business (as per Sec. 195)

(a) includes-

- (i) A **trade, profession, vocation or isolated arrangement** with a business character* however short the duration of the arrangement; and
- (ii) A past, present or prospective business;

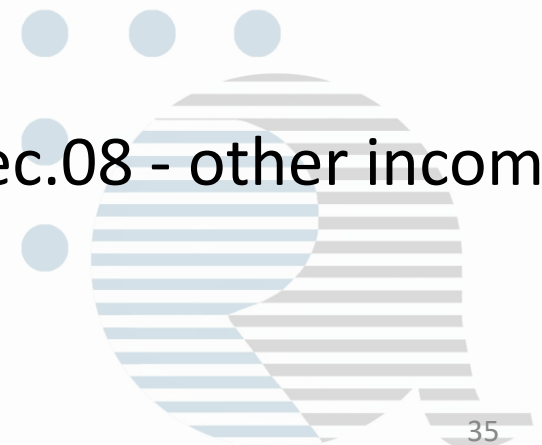
But

(b) excludes an employment



BUSINESS INCOME Contd...

- The words **trade**, **profession** and **vocation** are not defined in the Act and hence should use the case laws & dictionary meanings.
 - **“Trade”** = *As per former Act. (adventure and concern in the nature of trade)*
 - **“Profession”** = *intellectual skill + special training + formal qualification*
 - **“Vocation”** = *a person’s career or occupation (the way one spends his life)*
- An isolated arrangement having **business character*** to be treated as a business.
- In deciding **taxable profits**;
 - **Intention** at the time of entering in to the transaction is important to conclude as a **business character***.
 - The **casual & non-recurring nature** profits are excluded (Sec.08 - other income)
 - Mahavitharana Vs CIR (3 CTC 156)
 - Ram Iswara Vs CIR (3 CTC 184)
 - CIR Vs De Zoysa C.S. (1 CTC 524 Sc, 534 Pc)



BUSINESS INCOME Contd...

(Gains and profits from conducting business)

Gains and profit from business includes; (Sec. 6)

- Service Fee
- Consideration received in respect of trading stock
- Capital gains and liabilities of the business
- Realisations of depreciable assets of the business
- Consideration for accepting a reduction of the business capacity
- Gifts received in respect of business
- Derived business money and otherwise included in investment income
- Other amounts required to be included under the Act

Gains and profit from business excludes; (Sec. 6)

- Exempt amounts and final withholding payments
- Amounts included in calculating persons employment income



BUSINESS INCOME Contd...

(Gains and profits from conducting business)

Computation of a person's income from business/investment; (Sec. 11)

Business Income = Gross Income – Permitted Expenses

- In arriving at the income from a business/investment for a Y/A, **expenses*** incurred during the year by that person in the production of income from the business/investment shall be deducted (Sec. 11).
 - incurred during the year -
 - by that person -
 - in the production of income – *(similar meaning of Sec. 25 of the Old Act)*
 - **Former Act used the words **expenses and outgoing**.*
 - *“Expenditure” or “expense” means a payment made that reduces the assets of the person making the payment (Sec. 195)*

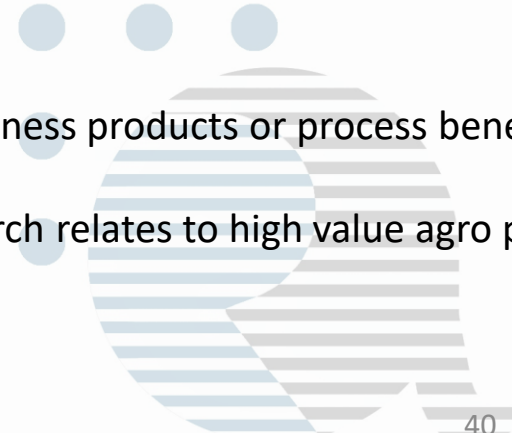
BUSINESS INCOME Contd...

- **Expenses of capital nature** (*includes an expense that secures a benefit capable of lasting longer than 12 months*) not allowed. (Sec. 11).
- No deductions shall be allowed against employment income [Sec. 10(1)].
- No deductions shall be allowed except as expressly permitted by the Act [Sec. 10(3)].
- Where more than one deduction applies, the most specific deduction shall be applied even if that results in the denial of a deduction [Sec. 10(4)].
- No deduction of an expense until the tax withheld is paid to CG (only if liable for WHT) [Sec.10(2)]

DISALLOWABLES (Sec. 10) in calculating person's income

Expense	Old Act (No. 10 of 2006)	New Act (24 of 2017)
1. Domestic Expenses (Defined in S.197)	Not Allow	Not Allow
2. Tax payables <u>under this Act</u>	Not Allow	Not Allow
3. Interest, penalties and fines payable to a <u>Government</u> for breach of a written law	Not Allow	Not Allow
4. Expenditure connected with exempt income/final withholding payments	Expenses on exempt income not allowable against liable income.	Not Allow
5. Retirement contributions.	Subject to limitations	Limited
6. Dividends of a Company	Not Allow	Not Allow
7. Entertainment expenses/outlays	Not Allow	Not Allow
8. Reserves or provision for expenditure/loss	Not Allow	Not Allow
9. Lotteries, betting or gambling costs	Not Allow	Not Allow
10. Taxes & other levies specified by CG	Not Allow	Not Allow

DEDUCTIBLES in calculating person's business income

Expense Description	Old Act (No. 10 of 2006)	New Act (No. 24 of 2017)
<p>1. Interest incurred on debts utilized during the year/ acquired an asset used for production during the year.</p>	<p>1. Allow even the asset <u>not used</u> for production during the year.</p>	<p>1. <u>Allow only if utilized</u> as stated in the expense description. (Sec. 12)</p>
<p>2. Allowance for trading stocks (B/F&C/F adjustment)</p>	<p>2. Allow</p>	<p>2. Allow (Sec. 13)</p>
<p>3. Repairs & Improvements</p>	<p>3. Improvements are in capital nature & hence not allowable.</p>	<p>3. Both deductible subject to a limit (Sec.14)</p> <ul style="list-style-type: none"> • buildings <u>up to 5% of WDV</u> • other assets <u>up to 20% of WDV</u>
<p>4. <u>Research & Development</u> (R&D and <u>agricultural start up expenses</u>) (Both Capital / Revenue)</p>	<p>4. For upgrading Trade/Business;</p> <ul style="list-style-type: none"> • If Inhouse 200% • If through any outside institution 300% 	<p>4. <u>R&D through any institution</u> (for upgrade the business or innovation/ research relates to high value agro products 100%)</p> <p><u>Inhouse R&D;</u> ; for improving business products or process beneficial to S L 100% ; Innovation /research relates to high value agro products 100% (Sec. 15)</p> 

DEDUCTIBLES in calculating person's business income (Contd...)

- Agricultural start up expenses means (as defined in the Sec.15);
 - (a) Opening up of lands for cultivation or for animal husbandry;
 - (b) Cultivating land referred to in paragraph (a) with plants;
 - (c) Purchase of livestock or poultry to be reared on land referred to in paragraph (a); or
 - (d) Maintaining tanks or ponds or clearing or preparation of any inland waters for rearing of fish and purchase of fish to be reared in such tank, pond or inland waters as the case may be.
- Research & Development expenses means (as defined in the Sec.15);
 - (a) Carrying on any scientific, industrial, agricultural or any other research for the upgrading of the person's business through any institution in Sri Lanka (or for any innovation or research relating to high value agricultural products, by the person or through any research institution in Sri Lanka); or
 - (b) The process of developing the person's business and improving business products or process.

DEDUCTIBLES in calculating person's business


Expense	Old Act(No. 10 of 2006)	New Act (No. 24 of 2017)
Capital allowance	Buildings - 10% M/Vehicles & Furniture - 20% IT equipment & software - 25% Plant, Machinery & Equipment - 33 1/3% and 50% Intangible Assets - 10%	Buildings - 5% M/Vehicles & Furniture - 20% IT Hardware - 20% Plant, Machinery & Equipment- 20% Intangible Assets – (Sec.16 & 4 th Schedule) Within the actual useful life If indefinite life - 5% • Claimability <u>cant be differed.</u>
Balancing allowance <i>(Gain/loss on disposal of an depreciated capital asset)</i>	Whether a gain or a loss it is considered as a trade/business gain/loss for taxation.	• If it is a gain it is considered as a business gain for taxation. • If it is a loss it is considered as an allowable capital allowance. • Gain/loss on <u>selling to an associate</u> do not cover under this. (Sec.16 & 2 nd / 4 th Sch.)

DEDUCTIBLES in calculating person's business

<u>Expense</u>	Old Act(No. 10 of 2006)	New Act (No. 24 of 2017)
Financial costs	Limitations were there only on group finances. No carry forward facility.	Limitations are there even on interest on non-group <u>financial instruments</u> Applicable only on financial instruments with 6 yrs. carry forward facility of unclaimed balance. (<i>"Financial instruments" are not defined</i>).
Loss on Financial Instruments	Was allowed only if it was a taxable F/Instrument.	As per Gazette No. 2064/55 such losses shall be setoff against F/Instrument gains.
Financial Lease Rental Payments	Lease rental was allowable with upper limits but no allowable depreciation.	Only interest & depreciation allowance is allowable. Rental is not allowed. (Sec.31)

DEDUCTIBLES in calculating person's business income

Expense Description	Old Act(No. 10 of 2006)	New Act (No. 24 of 2017)
1. Advertising	¼th Disallow	Allow in full
2. Finance Lease Rentals	Allow subject to Limitations	Allow both Interest & Depreciation (Sec.31)
3. Management Fee	Limited (1% or Rs.2M)	Allow in full
4. Foreign Travel	Limited	Allow in full



45

LOSSES

Expense	Old Act (No. 10 of 2006)	New Act (No. 24 of 2017)
<p>Business Losses (Sec.19 of new Act) i. General</p>	<ul style="list-style-type: none"> • Taxable business losses could be deducted up to 35% of SI. • Balance could be carried forward indefinitely. • Losses on leasing or life insurance could be set off against profits from same businesses. 	<ul style="list-style-type: none"> • Business losses could be deducted up to 100% of business income plus investment income and <u>not from total AI</u>. • However, the investment losses could be set off only against investment income. • Balance unrelieved loss C/F for 6 years for claiming. • Restriction on claiming losses of leasing and life insurance businesses is <u>removed</u>.

TAX ON SPECIAL BUSINESSES

Expense	Old Act (No. 10 of 2006)	New Act (No. 24 of 2017)
Financial Lease Rental income to Lessor	Rental is a taxable income. • Depreciation is allowable.	• Interest is a taxable income. • No depreciation allowances. (Sec. 49)
Long Term Contract Business Income	• No specific method in the tax law	• Income to be recognised on stage of completion method.(Sec. 25)
Life Insurance Business	• Taxable Profit = investment income less management expenses.	• Taxable Income = Surplus distributed to shareholders from policy holders fund + investment income out of the policy holders fund less expenses incurred in producing income. (Sec. 67)

TAX ON SPECIAL BUSINESSES(Contd...)

	Old Act	New Act (No. 24 of 2017)
Unit Trust Business	<ul style="list-style-type: none"> • Tax as a company but @ the rate of 10%. 	<p>i. Trusts engaged in <u>eligible investments</u> are treated as a trust and not as a company (tax @ 24%).</p> <p>ii. Trusts not Engaged in eligible investments are treated as a company and not as a trust (tax @ 28%). (Sec. 59)</p> <ul style="list-style-type: none"> • Engaged in Eligible Investments means a business predominately (80% limit) investing, owning or trading in capital assets, financial instruments or other similar assets.

OTHER INCOME (Sec. 08)

- A person's income from **other sources** for a year of assessment shall be that person's **gains and profits** from any source whatsoever for the year, not including profits of a casual and non-recurring nature.
- In deciding whether **Casual and Non-recurring nature**, the intention at the time of entering the transaction is important. (Case by case the facts to be considered).
- **Case Laws;**
 - Mahavitharana Vs CIR (3 CTC 156)
 - Ran Iswara Vs CIR (3 CTC 184)
 - CIR Vs De Zoysa C S (1 CTC 524 Sc., 534 Pc)




EXCLUDED INCOME FROM OTHER INCOME (Sec. 08)

- In calculating a person's gains or profits from any source (*means any other source other than employment, business or investment*), **the following shall be excluded**;
 - Exempt amounts and final withholding payments (*income subjected to final WHT*), and
 - Amounts that are included in calculating the person's income from employment, business or investment.



COMPANY TAX RATES (As per 1st Schedule)

Expense	Old Act (No. 10 of 2006)	New Act (No. 24 of 2017)
Company Tax Rates	<p>10% - Agriculture</p> <p>12% - Qualified Exports, Agriculture, Construction, Tourism, Small Companies etc.</p> <p>28% - Standard</p> <p>40% - Liquor, Tobacco, Grambling & Auto Lotteries.</p>	<p>10% - Capital Gains (Gain on realisation of investment Assets)</p> <p>14%*- SME, Non-traditional Exports, IT services, Agriculture, Education, Tourism.</p> <p><i>(*Companies predominantly (>80%) engaged in such business are entitle)</i></p> <p>28% - Standard</p> <p>40% - Liquor, Tobacco, Grambling. (First Schedule)</p> 

COMPANY TAX - IMPORTANT INTERPRETATIONS (As per Sec.195)

- **Small and Medium Enterprises (SME)**

- Solely in SL, Other than an Individual with a professional qualification or partnership,
- Does not have an associate* entity
- Annual turnover less than Rs. 500Mn.

** Refer Sec. 196*

- **Agricultural Business**

Business of providing agricultural, horticultural or any animal produce and includes an undertaking for the purpose of rearing livestock or poultry.

COMPANY TAX - IMPORTANT INTERPRETATIONS Contd....

- **Export**

Exports includes specified undertaking.

- **Specified Undertaking**

Specified undertaking means.....(this includes entrepot trading, offshore, service exports, HQ operations, logistic services, transshipment, freight forwarding, services to exporters, production/manufacture and supply to exporters of non-traditional goods, some gazetted services, sale of gem & jewellery in foreign currencies.

- **Educational Services**

???? (Not Defined)



COMPANY TAX RATES Contd... (As per First Schedule)

ON OTHER SPECIAL TYPES OF COMPANIES;

- **Charitable Institutions**

Capital gains @ 10%

Other taxable income @ 14%

- **Non-governmental Organizations**

Capital gains @ 10%

Other taxable income @ 28%

- **ETF, Provident or Pension and Termination Funds**

Taxable income @ 14%



INDIVIDUALS TAX RATES – (As per First Schedule)

	<u>Asse. Income</u>	<u>Taxable Inc.</u>	<u>Rate</u>	<u>Tax</u>	<u>Accu. tax</u>
P/Allowance	500,000	-	-	-	-
E/Allowance (if any)	700,000	-	-	-	-
1 st	600,000	600,000	@ 4%	24,000	24,000
2 nd	600,000	600,000	@ 8%	48,000	72,000
3 rd	600,000	600,000	@ 12%	72,000	144,000
4 th	600,000	600,000	@ 16%	96,000	240,000
5 th	<u>600,000</u>	<u>600,000</u>	@ 20%	<u>120,000</u>	<u>360,000</u>
Sub Total	<u>4,200,000</u>	<u>3,000,000</u>		360,000	360,000
Balance Taxable Income (> 3 million)			@ 24%		
On Liquor, Tobacco, Grambling income			@ 40% (Flat rate)		

- 14% concessionary tax rate (upper sealing) on SME, agriculture, export, specified undertakings & education business income is not applicable to non-company tax payees.

PARTNERSHIPS & TRUSTS TAX RATES - (As per First Schedule)

- **Partnerships –**

- Capital gains tax on the partnership @ 10%

- All other income not tax on the Partnership

- Allocation of partnership income subject to WHT @ 8%

- **Trusts -**

- Capital gains tax @ 10%

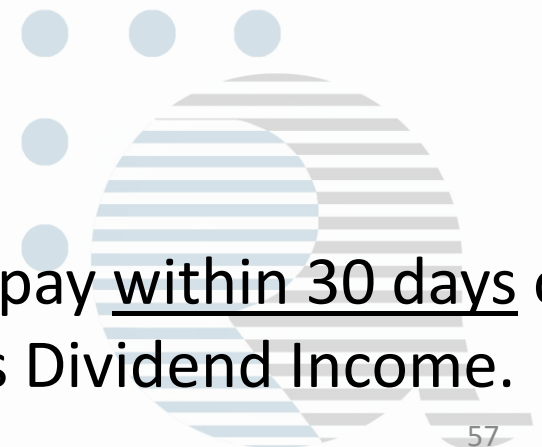
- Other taxable income tax @ 24%

- **Unit Trusts or Mutual Funds**

- Capital gains are tax @ 10%

- Other taxable income tax @ 28%

REMITTANCE TAX – Final tax of 14%. Non-resident person shall pay within 30 days of remitting SL P/E business profits earned within the Y/A. Excludes Dividend Income.



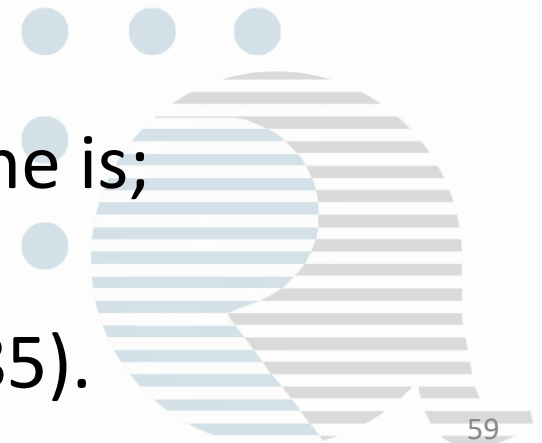
TAX PAYMENT METHODS & TIME (Sec. 82)

- **Methods & Date of paying the tax imposed under Sec. 82 (2);**

- (i) Withholding Tax (under Sec. 86) - *within 15 days from the end of the ~~quarter~~ **month**.*
This covers Employment (Sec. 83), Investment returns (Sec. 84) & service fee and contract payments (Sec. 85).
- (ii) Payable by instalments (Under Sec. 90) - *within 1 ½ months of each quarter end [This covers 4 quarterly payments].*
- (iii) On assessments; (means self assessments)
 - On Capital Gains – [Due date of Sec. 93 (3)] - *within 30 days .*
 - On other income (non-capital gains) – *[Balance, if any, after deducting 4 quarterly payments under Sec. 90, within 6 months of the end of the Y/A, i.e. 30th September].[Sec. 82(2)(c)(ii)].*
- (iv) In any other case not covered above – *On the date stated in the notice for payment. [Sec. 82(2)(d)].*

WITH HOLDING TAX (Contd...)

- It is a tax to be withhold by the payee and pay to the IRD.
- The payee who withhold the tax called as an withholding agent.
- “Withholding Agent” means, a person required to withhold tax from a payment under this Act. (Sec. 195)
- An individual payee is required to withhold tax only if he is;
 - Payments made as an employer (Sec. 83) **or**
 - Payments made in conducting business (Sec. 84 & 85).



WITH HOLDING TAX Contd..

Sec. 86 & 87 – Reporting & Payment of WHT.

Every WHT agent shall ;

- Register with the CGIR
- Pay the tax so collected/was to be collected to the CGIR within 15 days after the end of the month so deducted.
- File an annual return of statement with CGIR within 30 days after each year.
- Issue a monthly WHT certificate to each person from whom the tax has been withheld (withholdee) within 30 days after each month.
- Credit on non-final WHT- Available against the withholdee's tax liability(S. 89)

WITH HOLDING TAX

- **Sec. 83 – On Employment Income (PAYE)** – The circumstances in which the employer shall withhold tax may specify by the CGIR.

Employers (withholding agent) shall follow the instructions specified by the CGIR.

PAYE tables and instructions have been gazetted by the CGIR (No. 2064/60 of 01st April 2018 read along with IRD web)

- **Primary Employment** (as declared by an employee having more than one employment nominating the employment as his/her primary employment)
- **Consecutive Primary Employment** (a new declaration accompanied with WHT certificate issued by prior primary employer is required, where the new employer must return the prior WHT certificate within 7 days)

WITH HOLDING TAX

Sec. 83 – WHT on Employment Income (PAYE) (Contd..)

- **Secondary Employment** (not being the Primary Employment)
- Employers **Annual Statement** within 30 days after the Y/A (Required information is gazetted)
- Employers **WHT Certificate** (Formerly called as T 10)
- **False or Misleading Statement** (covers both primary employment declaration, WHT certificate)
- Employers to **maintain Proper Records** (to maintain, safe custody, CGIR's inspection)



WITH HOLDING TAX (Contd...)

Sec. 84 – WHT on Investment Returns –

- The paragraph 10 of First Schedule (@ 2.5%, 5%, 8%, 10%, 14% *as applicable*) to be applied by the payee (withholding agent).
- **Not Covered;**
 - Employment income.
 - In the case of payments made by individuals, not in conducting a business.
 - Interest paid to a financial institution on ordinary loans and advances.
 - Interest and discounts paid on Security or TB.
 - Payments or allocations that are exempted under Sec. 9.



WITH HOLDING TAX (Contd...)

Sec. 84 WHT on Investment Returns – (Contd...)

Coverage;

Covers only the following payment/allocation of a source of income in S L;

- Rent (@ 10%),
- Interest & discount (@ 5% - In certain cases final),
- Dividends, charge, natural resource payments, royalty, premium, retirement payments, lottery winnings, rewards and betting or gambling (@ 14% - In certain cases final).
- Allocation (apportionment) of share of partnership income (@ 8%).
- Gems sold at an auction conducted by National Gem and Jewellery Authority (@ 2.5% - final).

WITH HOLDING TAX (Contd...)

Section 85 – WHT on Service fees and Contract payments

Service fees and Contract payments with a source in SL.

(a) Pay to a resident individual (**WHT @ 5%** only on excess of Rs. 50,000);

- For teaching, lecturing, examining, invigilating, or supervision an examination,
- As a commission/brokerage to a resident insurance, sales or canvassing agent,
- As an endorsement fee,
- In relation to supply of any article on a contract basis through tender or quotation, or
- For such other matters as may be prescribed by regulation, **or**

(b) Pay a service fee or an insurance premium with a source in SL to a non-resident person. (**WHT @ 14%**)

WITH HOLDING TAX (Contd...)

- **Section 85 WHT on Service fees and Contract payments (Contd..)**

(c) Pay to a non-resident person (Land, sea or air transport or telecommunication services covered under Sec. 73) **(WHT @ 2%** as per the Gazette No. 2064/51).

Sec. 85 Not Covered;

- Employment income.
- In the case of payments made by individuals, not in conducting a business.
- Payments that are exempted.
- Payments of specified fees in respect of which a certificate is presented by the recipient confirming that it is chargeable with ESC.



WITH HOLDING TAX - Comparison with old Act

Item	Old Act	New Act
Rent	N/A	10%
Management Fee to Residents	5%	Not Liable
Royalty	10%	14%
Sales of Gems to Gem & Jewellery Authority	2.5% (Final Tax)	2.5% (Final Tax)
Telecom. Services (S L Apparatus)	N/A	Rates to be published
Non-resident Loans	N/A	
Royalty Payments to Non-residents	20%	14%
Insurance Premia to Non-residents	N/A	14%
Payments to Non-resident ship owners	N/A	14%
Mgt., technical. & service fee to Non-residents	20%	14%
Corporate Debt Securities (Quoted)	N/A	14%
Corporate Debt Securities (Unquoted)	10% *	5%
Interest/Discounts(subject to S/Citizens rebate)	2.5% *	5% *

** (Final tax on Individuals)*

INCOME TAX CONCESSIONS

1. Enhanced Depreciation Allowance

- On new investments in depreciable assets;
 - In Northern Province, assets cost above USD 3 Mn. 200%
 - In other areas; If cost of such assets from USD 3Mn to 100Mn 100%
 - If cost of such assets above USD 100Mn. 150%
- On new investments in depreciable assets in State owned Companies;
 - If cost of such assets above USD 250Mn.in an Y/A 150%

2. WHT exemption on dividends to Non-residents

- On new investments in depreciable assets above USD 1,000Mn.

3. Expatriates' Employment income exemption

Working in Companies meeting new investments in depreciable assets above USD 1,000Mn. (*Duration ?????*)



INCOME TAX ADMINISTRATION

Year of Assessment	01 st April to 31 st March. Trusts & Companies can change(S.20).
Payment of Tax (S.82)	WHT/ Instalments on quarterly basis /Self Assessed Capital Gains (CG) and Self Assessed balance non-CG tax/Any other.
Filing of Tax Returns	Within 8 months = 30 th November. (S.93)
Amending of Tax Rtn.	Within 4 years of filing
Assessing Time Bar	Within 30 months
Additional- Assessment Time Bar	Within 4 years of filing the original return
Submitting an appeal	Within 30 days of an assessment
Assessment Hearing	Within 90 days to be determined.



THE END.....

Thank You for giving the opportunity to share knowledge.

For further clarifications, please feel free to contact.....

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